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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,102	06/20/2003	Kenneth J. Balkus JR.	064422-5007	7030
9629	7590	10/15/2008	EXAMINER	
MORGAN LEWIS & BOCKIUS LLP			GRAY, JILL M	
1111 PENNSYLVANIA AVENUE NW			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20004			1794	
MAIL DATE		DELIVERY MODE		
10/15/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/601,102	<b>Applicant(s)</b> BALKUS ET AL.
	<b>Examiner</b> Jill Gray	<b>Art Unit</b> 1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 October 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,4-6,9,31 and 34-36 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1,4-6,9,31 and 34-36 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 6, 2008 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 4-6, 9, 31, and 35-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. More specifically, the amended language of "consists of" is new matter.

### ***Claim Rejections - 35 USC § 102***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 1, 4-6, 9, 31, and 34-36 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Martin 4,127,706 or Martin et al., 4,043,331 (both referred to collectively as Martin, and both for reasons of record).

Martin teaches electrospun fibers and network produced from a conducting solution, wherein said solution comprises a precursor material and surfactant, per claims 1, 4-6, 9, 31 and 34-36. See column 1, lines 13-15 and column 8, line 68. In addition, Martin teaches that the fiber diameter is within applicants' range as required by claim 5. See Example 3. Also, Martin teaches that a metal oxide of the type contemplated by applicants in claim 4 can be included. See column 8, lines 48-52. Applicants amendment incorporating the language wherein the mesoporous molecular sieve "consists of" has been noted. However, the open-ended language of line 1 "wherein said fiber comprises" does not exclude other components.

Therefore, the teachings of Martin anticipate the invention as claimed in claims 1, 4-6, 9, 31, and 34-36.

7. Claims 1, 5-6, 31, and 34-36 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Simpson et al US 2004/0037813 A1 (Simpson) or Layman et al, US 2003/0215624A1 (Layman) for reasons of record.

Simpson and Layman each teach electrospun fibers produced from a conducting solution comprising a precursor material and surfactant, per claims 1, 5-6, 31 and 34-36. See Simpson, page 6, [0079] and Layman, abstract and page 4, [0043]. As to the diameter set forth in claim 5, Simpson and Layman each teach diameters within applicants' claimed range. See Simpson, claim 10 and Layman, page 1, [0003]. Applicants' amendment incorporating the language wherein the mesoporous molecular sieve "consists of" has been noted. However, the open-ended language of line 1 "wherein said fiber comprises" does not exclude other components.

Therefore, the prior art references of Simpson and Layman anticipate the invention of claims 1, 5-6, 31, and 34-36.

8. Claims 1, 4-6, 9, 31, and 34-36 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Senecal et al., 6,800,155 B2 (Senecal) for reasons of record.

Senecal teaches an electrospun fiber and a network of fibers (claims 1, 6, and 31) comprising at least one mesoporous precursor material of the type contemplated by applicants in claims 4, 9 and 34-36. See abstract and column 5, line 46 through column 6, line 2. In addition the fibers have a diameter within applicant's range as required by claim 5. See column 4, lines 50-51. Applicants' amendment incorporating the language wherein the mesoporous molecular sieve "consists of" has been noted. However, the open-ended language of line 1 "wherein said fiber comprises" does not exclude other components.

Therefore, the prior art teachings of Senecal anticipate the invention as claimed in present claims 1, 4-6, 9, 31 and 34-36.

9. Claims 1, 5-6, and 31 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ignatious et al., US 2003/0017208 A1 (Ignatious), for reasons of record.

Ignatious teaches electrospun fibers and network of fibers (per claims 1, 6, 31) comprising a fiber forming material. The fiber forming material is selected from materials capable of being used to form molecular sieves, and more specifically, mesoporous materials. Note [0054], [0055 and [0058]. Also, the fiber diameter is within applicants' range as required by claim 5. See [0031]. Applicants' amendment incorporating the language wherein the mesoporous molecular sieve "consists of" has been noted. However, the open-ended language of line 1 " wherein said fiber comprises" does not exclude other components.

Therefore the teachings of Ignatious anticipated the invention as claimed in present claims 1, 5-6 and 31.

No claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jill Gray whose telephone number is 571-272-1524. The examiner can normally be reached on M-Th and alternate Fridays 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jill Gray  
Primary Examiner  
Art Unit 1794

/Jill Gray/  
Primary Examiner, Art Unit 1794